IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.901 OF 2004

Mangesh Govind Jalavi .. Appellant
(Original Defendant)

vs.

Eknath Vithal Dalvi .. Respondent.
(Original Plaintiff)

Mr. Manoj Bhat, Advocate for the Appellant.

Mr.S.M.Oka, Advocate for the Respondent.

CORAM : A.S.OKA, J.

DATED : 16th March, 2005.

P.C. :

1. Heard the learned Advocates appearing for the parties. After arguing the appeal for some time the learned Advocate appearing for the Appellant, on instructions of the Appellant who is present personally before the Court submits that if sufficiently longer time to vacate the suit premises is granted to the Appellant, he does not desire to press the appeal on merits. He submitted that time to vacate of atleast two years be granted considering the fact that the suit premises are residential premises and the

Appellant is occupying the said premises with his family. The prayer for grant of longer time is opposed by the learned Counsel appearing for the Respondent. Considering the fact that the Appellant is not pressing the appeal on merits and considering the fact that the dispute relates to a small residential premises, time of two years to vacate the suit premises deserves to be granted subject to the Appellant and all his adult family members filing the undertaking to vacate, before this Court within a period of two weeks from today.

2. Hence I pass the following order:

i) Second Appeal is dismissed as not pressed.

ii) No orders as to cost.

iii) Notwithstanding the dismissal of the Second Appeal, decree for possession shall not be executed for a period of two

years from today, subject to the Appellant and all his adult family members filing the usual undertakings to vacate in this Court within a period of two weeks from today.

iv) If the undertakings are not filed within the stipulated period, the decree will become executable forthwith.

. Parties to act on the authenticated copy of this order.

(A.S.Oka,J.)